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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,916	09/18/2001	Matthew J. Chalek	7097.02.01	9399

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EXAMINER

BROWN, MICHAEL A

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.	09/955,916	Applicant(s)	Matthew J. Chalk
Examiner	Michael Brown	Group Art Unit	3764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

Responsive to communication(s) filed on \_\_\_\_\_

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1, 3, 5-18 and 20-22 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1, 3, 5-18 and 20-22 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All  Some\*  None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

Copies of the certified copies of the priority documents have been received  
in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 5  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

2. Claims 1 and 5-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hardy.

Hardy discloses in figures 1-4 a therapeutic wrap comprising an elongated flexible strip 1 of latex-free (woven polyester fabric makes up layer 13 and flannel or terry cloth makes up layer 19), a sheet 17 of disposable material secured to a first side surface of the strip, the sheet forms pocket 7. The material of the strip is made of a polyester woven (that will not unravel if cut). The wrap includes a plurality of attachment elements (18, 18'). The pocket is positioned proximate a mid portion or the second end (because of the size of the pocket it is proximate the mid portion and the second end, fig.2). The pocket has one end open (to receive packet 20). The wrap is loop and secured to form a sleeve with overlapping of the end portions (the wrap (cuff) is a sleeve that has overlapping end portions).

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 11-18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy in view of Hubbard, along with Delk.

Hardy discloses in figures 1-4 a therapeutic wrap comprising woven cloth fibers.

However, Hardy does not disclose the fibers being polypropylene or the pouch being comprised of latex-free flexible woven polypropylene cloth. Hubbard teaches in figures 1-2 a therapeutic wrap comprising a strip 10 that has a covering 32 that is formed of a woven cloth of polypropylene fibers (col. 1, lines 48-53). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the polypropylene fibers as taught by Hubbard could be substituted for the polyester fibers as disclosed by Hardy because the polypropylene fibers are durable, strong and they allow permeation of air or moisture therethrough. The polypropylene fibers would be used on the strip and the pocket. Delk, in figure 5 teaches a therapeutic wrap comprising a pocket 12 comprising polypropylene fibers (outer layers 32, 34 are made of (polypropylene).

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***Response to Arguments***

5. Applicant's arguments filed September 3, 2002 have been fully considered but they are not persuasive.

Applicant argues that Hardy does not disclose a wrap material that is latex-free. However, the examiner is interpreting latex-free to mean without latex. Clearly, polyester woven fiber material is free of latex. Applicant argues that the material disclosed by Hardy is not pliant or capable of elongation. However, Hardy discloses the material being polyester, which is pliant and capable of some elongation. Applicant argues that Hardy does not disclose that the warp is disposable. However, anything is disposable. Also in today's medical environment, it would be advantages not to use the wrap more than one time. Applicant argues that none of the prior art discloses or suggest that the material can be cut without unraveling. However, Hardy discloses a polyester material which is generic to polypropylene. However, Hardy was used to set forth the environment of a wrap having a polyester material and Hubbard and Delk were used as modifiers to provide the specific type of polyester material, which in this case is polypropylene. Thus, the material of the wrap would not unravel if it would be cut.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (703) 308-2682.

M. Brown  
December 1, 2002

